PATENT

Atty Docket No.: 200313170-1
App. Ser. No.: 10/780,631

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks. Claims 1-44 are pending in the present application of which claims 1, 20, 25, 34, and 39 are independent.

Personal Interview Conducted

The undersigned respectfully thanks the Examiner for the courtesies extended during the personal interview conducted on November 15, 2005. As discussed during that interview, the Examiner mistakenly rejected the claims of the present application with an incorrect reference, U.S. Paten No. 5,497,057 to Danielson et al. More particularly, the Examiner agreed that the rejections based upon Danielson et al. were improper because Danielson et al. fails to disclose the claimed invention. As such, the Examiner agreed that a further search would be conducted and that any subsequent Official Action would be non-final.

Although the Examiner has clearly erred in rejecting the claims of the present application based upon the disclosure contained in Danielson et al., Applicants have presented arguments below against Danielson et al. to ensure the completeness of the present response.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way

to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

> Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-3, 5, 7-20, 22-29, 33-37, 39-42, and 44 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Danielson et al (U.S. 5,497,057). For at least the reasons set forth below, Danielson et al. fails to teach or suggest all of the features of at least independent claims 1, 20, 25, 34, and 39. Accordingly, independent claims 1, 20, 25, 34, and 39, and the clams that depend therefrom, are believed to be allowable over the disclosure contained in Danielson et al.

Claim 1 is drawn to a system for detecting airflow in a room. The system includes, *inter alia*, an airflow indicating device having a movable component whose movement substantially corresponds to airflow in a vicinity of the airflow indicating device. The system also includes cooling system components and a computer system configured to control the cooling system components substantially based upon movement of the movable component.

Danielson et al. fails to disclose virtually all of the features of claim 1. Danielson et al. is drawn to a method of automatically retrieving tapes in a tape library system. Danielson et al., at the very least, does not disclose a system for detecting airflow in a room.

In addition, contrary to the assertion in the Official Action, Danielson et al. fails to disclose the claimed airflow indicating device. The Official Action generally asserts that Danielson et al. somehow discloses an airflow indicating device in figure 2. Figure 2, however, illustrates a "robot" having a large griping device for gripping tapes in the tape library. (See column 4 lines 23-55). Danielson et al. does not disclose that the robot has the capability to indicate airflow. Moreover, the Official Action seems to assert that the robot has a movable component whose movement substantially corresponds to airflow in the vicinity of the airflow indicating device. The robot and its arm, however, are controlled through a personal computer, not airflow. (See, for instance, column 4, lines 33-37).

The Official Action states that figure 2 of Danielson et al. also shows the claimed cooling system components, without pointing out which part of figure 2 is considered to represent the claimed cooling system components. Nowhere in figure 2, however, are cooling system components illustrated. Moreover, the description of figure 2 also fails to mention cooling system components.

Moreover, Danielson et al. fails to disclose a computer system configured to control cooling system components substantially based upon movement of a movable component. Instead, the personal computer of Danielson et al. is used to control the robot based on the tape that needs to be retrieved from the tape library. As such, the Danielson et al. personal computer does not control cooling system components and further does not control components based upon movement of a movable component.

Claim 20 pertains to a system for detecting airflow in a room. The system comprises, *inter alia*, a pole and a plurality of movable components attached to the pole. The movable

components are configured to move in a direction of the airflow in a vicinity to the pole to indicate the direction of airflow.

The Official Action fails to address any of the features claimed in claim 20 of the present invention and it is therefore impossible for the Applicants to determine how Danielson et al. has been interpreted to reject claim 20. In fact, it appears that Danielson et al. fails to disclose each and every feature of claim 20.

Claim 25 is drawn to a method for reducing air re-circulation in a room. Danielson et al. does not appear to disclose a single feature of claim 25 of the present invention. The Official Action cites several passages and asserts that these passages somehow show all of the elements of claim 25. However, none of those cited passages in Danielson et al. disclose detecting airflow conditions, deterring airflow directions, determining whether airflow directions are acceptable, or manipulating cooling system components. As such, it is not at all clear as to how the Official Action has interpreted Danielson et al. to reject claim 25.

Claims 34 and 39 recite features similar to those claimed in claims 1, 20, and 25. Claims 34 and 39 are not disclosed by Danielson et al. for at least the reasons set forth above.

For at least the foregoing reasons, Danielson et al. fails to disclose the features of independent claims 1, 20, 25, 34, and 39 and the claims that depend therefrom and therefore cannot anticipate these claims. The Examiner is therefore respectfully requested to withdraw the rejection of claims 1-3, 5, 7-20, 22-29, 33-37, 39-42, and 44 and to allow these claims.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

The Official Action sets forth a rejection of claims 4, 6, 21-22, 30-32, 38, and 42-43 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the disclosure contained in Danielson et al. in view of U.S. Patent No. 6,776,817 to Lentz et al. This rejection is respectfully traversed because Danielson et al. and Lentz et al., considered singly or in combination, fails to disclose the invention as set forth in independent claims 1, 20, 25, 34, and 39 of the present invention and the claims that depend therefrom.

As discussed above, Danielson et al. fails to disclose the features of independent claims 1, 20, 25, 34, and 39. In addition, Lentz et al. does not and can not be reasonably construed as making up for the deficiencies of Danielson et al. discussed above. The proposed combination of Danielson et al. and Lentz et al., therefore, fails to disclose all of the features in independent claims 1, 20, 25, 34, and 39 and the claims that depend therefrom. The Examiner is therefore respectfully requested to withdraw the rejection of claims 4, 6, 21-22, 30-32, 38, and 42-43 and to allow these claims at least by virtue of their dependence upon allowable claims 1, 20, 25, 34, and 39.

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Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: December 12, 2005

By _____
Timothy B. Kang
Registration No.: 46,423

MANNAVA & KANG, P.C.
8221 Old Courthouse Road
Suite 104
Vienna, VA 22182
(703) 652-3817
(703) 880-5270 (facsimile)